

AMENDED IN SENATE APRIL 8, 2010

AMENDED IN SENATE MARCH 18, 2010

SENATE BILL

No. 844

Introduced by Committee on Budget and Fiscal Review

January 11, 2010

An act to add Sections 9143.5, 9145, 10247.5, 13335.3, and 13335.5 to, and to add Chapter 1.5 (commencing with Section 16330) to Part 2 of Division 4 of Title 2 of, the Government Code, relating to state finance.

LEGISLATIVE COUNSEL'S DIGEST

SB 844, as amended, Committee on Budget and Fiscal Review. State finance: budget process.

Under existing law, duties and responsibilities are imposed upon the Governor and the Director of Finance relating to the preparation and submission of the annual state budget to the Legislature, including, among other things, providing a complete plan of all proposed expenditures and estimated revenues for the ensuing fiscal year. Existing provisions of the California Constitution prohibit the Legislature from sending to the Governor for consideration, and prohibit the Governor from signing, a Budget Bill that would appropriate from the General Fund a total amount that, when combined with specific appropriations and transfers, exceeds the General Fund revenues for that fiscal year estimated as of the date of the Budget Bill's passage.

This bill would make statutory changes to implement and conform to constitutional changes proposed by SCA _____ 19 and would become operative only if SCA _____ 19 is approved by the voters.

~~SCA _____ would require the Legislature to establish a schedule of review of all state programs in which each state program would be~~

~~reviewed once per every 10 years. This bill would establish the process for review of the performance of all state programs at least once every 10 years.~~

~~SCA _____ would make void a statute, and would prohibit submission to the electors of a constitutional amendment or revision proposed by the Legislature, that would result in either a net increase in qualified state costs or a net decrease in state revenue in excess of \$25,000,000 annually, unless the statute or measure also contains provisions, as defined in statute, to offset the increase in costs or loss in revenue. This bill would require the Legislative Analyst to make specified determinations regarding a bill or measure that would result in an annual net increase in qualified state costs, as defined, or a net decrease in state revenue, in excess of \$25,000,000. The bill would provide that a statute or measure is in compliance with the provisions of SCA _____ if the Legislative Analyst determines that the increase in qualified state costs or decrease in state revenues that would be imposed by the bill enacting the statute or measure does not exceed the amount by which state revenues exceed state expenditure obligations, as specified.~~

~~SCA _____ would require the state budget submitted to the Legislature by the Governor each year to contain performance measurement standards for state agencies and programs. This bill would establish performance-based budgeting for every state agency in the executive branch for which an appropriation has been made. The state agency would be required to prepare a complete and detailed budget setting forth all proposed expenditures and estimated revenues for the ensuing fiscal year. The bill would require the Governor's Budget to be based on this method beginning with the 2014-15 fiscal year.~~

~~SCA _____ would permit nonrecurring revenue to be expended only to pay for one-time expenditures. This bill would require that nonrecurring revenue, as defined, be used only for one-time expenditures, as defined, in the Budget Bill for the ensuing year, and would specify the process for estimating, evaluating, and determining the existence of nonrecurring revenue.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 9143.5 is added to the Government Code,
- 2 to read:

1 9143.5. (a) Within one year of the operative date of the act
2 that added this section, the Legislature shall establish a process,
3 including the use of a new or existing joint committee, for
4 reviewing the performance of all state programs at least once every
5 10 years. The process shall include a schedule with deadlines for
6 the review of programs. It shall provide for the review of programs
7 the expenditures for which total one-third or more of all
8 expenditures by July 1, 2015, and for the review of programs the
9 expenditures for which total two-thirds of all expenditures by
10 January 1, 2018. For purposes of this section, “expenditures”
11 includes, *in addition to state program costs*, statutory exemptions,
12 deductions, credits, or exclusions from taxes or fees that would
13 otherwise apply.

14 (b) Six months prior to the deadline for review of each program,
15 the joint committee shall refer the initial program review to the
16 appropriate policy committees of each house of the Legislature.
17 For programs with common objectives, the reviews may be
18 combined. Within 90 days of the deadline, the policy committees
19 shall make recommendations regarding the program to the joint
20 committee. The joint committee’s review may be based on the
21 recommendations of the policy committees, as well as
22 recommendations that may be made by the Milton Marks “Little
23 Hoover” Commission on California State Government Organization
24 and Economy, the Legislative Analyst, the Bureau of State Audits,
25 or the public. In preparing proposed legislation for a program being
26 reviewed, the joint committee shall propose one or more of the
27 following:

28 (1) Modifications to the program that will reduce costs.

29 (2) Modifications to the program that will improve outcomes.

30 (3) Termination of the program.

31 (c) Proposed legislation of the joint committee shall be submitted
32 to the committee on rules of each house for referral to the
33 appropriate policy committee for public hearing and further action.

34 (d) The joint committee shall post on its Internet Web site its
35 recommendations and the results of the Legislature’s action.

36 SEC. 2. Section 9145 is added to the Government Code, to
37 read:

38 9145. (a) Before a bill, or a measure that proposes to amend
39 or revise the California Constitution, that has been referred to the
40 fiscal committee of either house is read for a third time in either

1 house of the Legislature, *the fiscal committee of the respective*
2 *house of the Legislature shall determine whether the bill or*
3 *measure is subject to review by the Legislative Analyst pursuant*
4 *to this section. If the committee refers the bill or measure to the*
5 *Legislative Analyst for review,* the Legislative Analyst shall
6 determine whether the bill or measure would result in a net increase
7 in qualified state costs or a net decrease in state revenue. The
8 Legislative Analyst shall submit the analysis of the bill or measure
9 to the fiscal committees of each house of the Legislature and shall
10 place the analysis on his or her Internet Web site if he or she
11 determines that the bill or measure would result in either a net
12 increase in qualified state costs or a net decrease in state revenue
13 in excess of twenty-five million dollars (\$25,000,000) annually,
14 as adjusted for inflation pursuant to the California Consumer Price
15 Index.

16 (b) (1) ~~If a bill or measure, as determined by the Legislative~~
17 ~~Analyst, determines a bill or measure~~ would result in either a net
18 increase in qualified state costs or a net decrease in state revenue
19 in excess of twenty-five million dollars (\$25,000,000) annually,
20 as adjusted for inflation pursuant to the California Consumer Price
21 Index, the Legislative Analyst shall determine whether the bill or
22 measure, if enacted, would comply with the requirements of
23 subdivision (e) of Section 8 of Article IV, or Section 3.5 of Article
24 XVIII, as applicable, of the California Constitution.

25 (2) A statute or measure shall be deemed to comply with the
26 requirements of subdivision (e) of Section 8 of Article IV, or
27 Section 3.5 of Article XVIII, as applicable, of the California
28 Constitution if the Legislative Analyst determines that the net
29 increase in qualified state costs or net decrease in state revenues
30 that would be imposed by the bill enacting the statute or measure
31 proposing to amend or revise the California Constitution does not
32 exceed the amount by which state revenues exceed state
33 expenditure obligations for the prior fiscal year, the current fiscal
34 year, or any of the three succeeding fiscal years, whichever is least.

35 (c) If the Legislative Analyst makes a determination pursuant
36 to subdivision (b) that a bill, if enacted, or measure would not
37 comply with the requirements of subdivision (e) of Section 8 of
38 Article IV, or Section 3.5 of Article XVIII, as applicable, of the
39 California Constitution, and the Legislature, by two-thirds vote of
40 the membership of each house, makes a finding, based on its

1 financial analysis, that the bill or measure would result in a net
2 increase in qualified state costs or a net decrease in state revenue
3 in an amount equal to, or less than, twenty-five million dollars
4 (\$25,000,000) annually, as adjusted for inflation pursuant to the
5 California Consumer Price Index, the bill, if enacted, or measure
6 shall be deemed to be in compliance with subdivision (e) of Section
7 8 of Article IV, or Section 3.5 of Article XVIII, as applicable, of
8 the California Constitution.

9 (d) For purposes of this section, the determination by the
10 Legislative Analyst as to whether a bill or measure would result
11 in a net increase in qualified state costs or a net decrease in state
12 revenue may include consideration of the impact of program
13 changes attributable to cost savings or changes in revenues of other
14 state or local programs that are reasonably expected to occur as a
15 result of the implementation of the bill or measure. The Legislative
16 Analyst shall establish the time period for its analysis under this
17 section.

18 (e) For purposes of this section and Section 10247.5, and
19 subdivision (e) of Section 8 and paragraph (2) of subdivision (a)
20 of Section 12 of Article IV, and Section 3.5 of Article XVIII, of
21 the California Constitution, the following terms have the following
22 meanings:

23 (1) “Qualified state costs” means costs to the state, whether paid
24 from General Fund or special fund sources. “Qualified state costs”
25 does not include the following:

26 (A) Costs incurred for the payment of principal and interest on
27 a general obligation bond.

28 (B) The restoration of funding to an agency or program that was
29 reduced in a prior fiscal year or years in order to balance the budget
30 or address a forecasted deficit if any of the following apply:

31 (i) The bill or measure restores reductions in appropriations
32 made pursuant to a declaration of fiscal emergency under
33 subdivision (f) of Section 10 of Article IV of the California
34 Constitution.

35 (ii) The bill or measure restores reductions in appropriations
36 made prior to the operative date of the act adding this section if
37 the Legislature makes a finding that the reductions in the program’s
38 or agency’s funding were necessary in order to balance the budget
39 or to address a mid-year deficit and that expanding the program

1 or agency is limited to restoring the program's or agency's funding
2 to the level that existed prior to the reductions.

3 (iii) The bill or measure restores reductions in appropriations
4 made on or after the operative date of the act that added this section
5 if the Legislature makes a finding that at the time the reductions
6 were made, the reductions in the program's or agency's funding
7 were necessary to balance the budget or to address a forecasted
8 deficit, and that at the time the funding is restored, the expansion
9 of the program or agency is limited to restoring the program or
10 agency's funding to the level that existed prior to the reductions
11 made pursuant to paragraph (4) of subdivision (f) of Section 10 of
12 Article IV of the California Constitution:

13 (C) Increases in a program's or agency's funding contained in
14 the Budget Bill or in a budget implementation bill which are limited
15 to the fiscal year for which the bill was enacted.

16 (D) Growth in a program's or agency's funding attributable to
17 increases in the cost of living or work load, including an increase
18 contained in a memorandum of understanding approved by the
19 Legislature.

20 (E) Growth in a program's or agency's funding required by
21 federal law or a California law that is in effect on the operative
22 date of the act that added this section.

23 (F) A bill or measure containing a requirement described in
24 paragraph (5) of subdivision (b) of Section 6 of Article XIII B of
25 the California Constitution.

26 (2) "A net increase in qualified state costs" means ongoing
27 expenditures for a program or agency and does not include a
28 one-time expenditure made by a program or agency.

29 (3) "Additional revenue" means revenue to the state that results
30 from specific changes made by federal or state law and that the
31 state agency responsible for collecting the revenue has quantified
32 and determined to be a sustained increase.

33 SEC. 3. Section 10247.5 is added to the Government Code, to
34 read:

35 10247.5. Before a bill or measure is read for a third time in
36 either house of the Legislature, the digest of the Legislative
37 Counsel on the bill or measure shall reflect the determination made
38 by the Legislative Analyst pursuant to Section 9145 whenever the
39 Legislative Analyst determines that the bill or measure would
40 result in a net increase in qualified state costs or a net decrease in

1 state revenue in excess of twenty-five million dollars (\$25,000,000)
2 annually, as adjusted for inflation pursuant to the California
3 Consumer Price Index.

4 SEC. 4. Section 13335.3 is added to the Government Code, to
5 read:

6 13335.3. (a) The purpose of performance-based budgeting is
7 to inform policy, fiscal, and oversight decisions by the Governor
8 and Members of the Legislature; to focus managers, supervisors,
9 and rank and file workers on achieving desired goals; and to
10 communicate to the public the value of public programs, progress
11 toward desired results, and the choices available to improve the
12 expenditure of public funds.

13 (b) Every state agency for which an appropriation has been
14 made shall submit to the department a complete and detailed budget
15 at the time and in the form prescribed by the department, setting
16 forth all proposed expenditures and estimated revenues for the
17 ensuing fiscal year.

18 (c) The budget submitted to the department and proposed by
19 the Governor shall use performance-based budgeting methods that
20 make clear to policymakers and the public the value and results
21 of existing operations and any proposed changes.

22 (d) A performance-based budget shall identify and update all
23 of the following:

24 (1) The mission and goals of the agency.

25 (2) The activities and programs focused on achieving those
26 goals.

27 (3) Performance metrics that reflect desired outcomes for
28 existing and proposed activities and a targeted performance level
29 for the following year.

30 (4) Prior-year performance data and an explanation of any
31 deviation from previous-year targets.

32 (5) Proposed changes in statute, including the creation of
33 incentives or elimination of disincentives that could improve
34 outcomes or hold down costs.

35 (e) The Governor shall provide on his or her Internet Web site
36 a summary of each state agency's mission, goals, prior-year
37 performance, and future-year objectives.

38 SEC. 5. Section 13335.5 is added to the Government Code, to
39 read:

1 13335.5. (a) Not later than the 2014–15 fiscal year, and each
2 fiscal year thereafter, the budget submitted by the Governor to the
3 Legislature required by Section 12 of Article IV of the California
4 Constitution shall use performance-based budgeting methods.

5 (b) The amount of each appropriation made in the Budget Act
6 for the 2014–15 fiscal year, and each fiscal year thereafter, for
7 expenditure by any state agency shall be determined after
8 considering performance-related data. The Budget Act introduced
9 by the Governor also shall include performance standards, which
10 may be amended by the Legislature. These standards shall apply
11 to each state agency and allow the public and policymakers to
12 understand the effectiveness and efficiency of each program.

13 (c) The Legislative ~~Analyst's Office~~ *Analyst* shall review the
14 adequacy of performance metrics and progress toward targeted
15 outcomes ~~in its review of~~ the Governor's budget proposal.

16 (d) A task force consisting of the director, the Controller, and
17 the chairpersons and vice chairpersons of the Senate Committee
18 on Budget and Fiscal Review and the Assembly Committee on
19 Budget shall do all of the following:

20 (1) Review and comment on guidelines and procedures drafted
21 by the department for use by state agencies in developing
22 performance-based budgets pursuant to Sections 13320 and
23 13335.3. The guidelines shall describe how state employees will
24 be involved in establishing and implementing performance
25 standards.

26 (2) Review and comment on a training program developed by
27 the department for appropriate executive branch personnel to ensure
28 the successful implementation of performance-based budgeting
29 and management by state agencies.

30 (3) Review and comment on a plan prepared by the department
31 for systematically phasing in the requirements of Sections 13320
32 and 13335.3. The plan shall ensure that by the 2012–13 fiscal year
33 performance-based budgeting methods are used in preparing,
34 reviewing, and enacting one-third or more of the total General
35 Fund expenditures proposed in the Governor's Budget for that
36 fiscal year.

37 (e) For purposes of this article, "state agency" means any
38 agency, department, or other entity of the executive branch of the
39 state required to submit a budget pursuant to Article 2
40 (commencing with Section 13320).

1 *SEC. 6. Sections 1 to 5, inclusive, of this act shall become*
2 *operative only if SCA 19 is approved by the voters, and they shall*
3 *become operative upon the operative date of that measure.*

4 SEC. 6. Chapter 1.5 (commencing with Section 16330) is added
5 to Part 2 of Division 4 of Title 2 of the Government Code, to read:

6
7 ~~CHAPTER 1.5. NONRECURRING REVENUE~~
8

9 ~~16330. For purposes of this chapter and Section 12 of Article~~
10 ~~IV of the California Constitution, the following definitions apply:~~

11 ~~(a) “Nonrecurring revenue” means General Fund proceeds of~~
12 ~~taxes received in a fiscal year from any source that exceed both~~
13 ~~the amount that the state received from that source in the~~
14 ~~immediately preceding fiscal year and the amount the state expects~~
15 ~~to receive from that source in each subsequent fiscal year.~~

16 ~~(b) (1) “One-time expenditure” means any of the following:~~

17 ~~(A) A transfer by statute to the Budget Stabilization Fund.~~

18 ~~(B) An appropriation for one-time infrastructure or other capital~~
19 ~~outlay purposes.~~

20 ~~(C) An appropriation to retire, redeem, or defease outstanding~~
21 ~~general obligation or other bonded indebtedness of the state.~~

22 ~~(D) The return to taxpayers within the current or immediately~~
23 ~~following fiscal year by a one-time revision of tax rates, or by~~
24 ~~rebates.~~

25 ~~(E) An appropriation for unfunded liabilities for vested~~
26 ~~nonpension benefits for state annuitants.~~

27 ~~(F) Appropriations necessary to meet the outstanding balance~~
28 ~~of the maintenance factor owed by the state for one or more prior~~
29 ~~fiscal years pursuant to subdivision (d) of Section 8 of Article XVI~~
30 ~~of the California Constitution.~~

31 ~~(2) “One-time expenditure” does not include either of the~~
32 ~~following:~~

33 ~~(A) An appropriation necessary to meet the state’s obligation~~
34 ~~under Section 8 of Article XVI of the California Constitution,~~
35 ~~including any maintenance factor allocation for the current fiscal~~
36 ~~year required pursuant to subdivisions (d) and (e) of that section.~~

37 ~~(B) An appropriation necessary to balance the state budget for~~
38 ~~the fiscal year in which the nonrecurring revenue is received, the~~
39 ~~absence of which would produce a deficit for that fiscal year.~~

1 ~~16331. Based on an analysis of the General Fund proceeds of~~
2 ~~taxes received through April 30 of each year, the Franchise Tax~~
3 ~~Board and State Board of Equalization shall identify each source~~
4 ~~of General Fund proceeds of taxes that is higher than the tax~~
5 ~~proceeds received from that source in the preceding fiscal year.~~
6 ~~The Franchise Tax Board and the State Board of Equalization shall~~
7 ~~provide this information to the Legislature, the Governor, the~~
8 ~~Controller, and the public by May 15 of each year.~~

9 ~~16332. By May 31 of each year, the Legislative Analyst and~~
10 ~~the Director of Finance shall jointly do all of the following:~~

11 ~~(a) Estimate the amount of nonrecurring revenue deposited in~~
12 ~~the General Fund as of that date for the current fiscal year and~~
13 ~~provide this estimate to the Legislature, the Governor, the~~
14 ~~Controller, and the public. In determining this estimate, the~~
15 ~~Legislative Analyst and the Director of Finance shall consider, at~~
16 ~~a minimum, the Governor's estimate of nonrecurring revenue for~~
17 ~~the current fiscal year; historical growth in General Fund proceeds~~
18 ~~of taxes, including data provided by the Franchise Tax Board and~~
19 ~~the State Board of Equalization pursuant to Section 16331;~~
20 ~~economic conditions and projections; stock market trends;~~
21 ~~including data regarding capital gains and the exercise of stock~~
22 ~~options; and an evaluation of the revenue forecast for the prior~~
23 ~~fiscal year and the extent to which that forecast was accurate.~~

24 ~~(b) Determine whether the amount of nonrecurring revenue~~
25 ~~received during the prior fiscal year was less than the amount of~~
26 ~~nonrecurring revenue for that fiscal year that was appropriated~~
27 ~~pursuant to subdivision (a) of Section 16333, and provide a~~
28 ~~certification of that determination to the Legislature, the Governor,~~
29 ~~the Controller, and the public.~~

30 ~~16333. (a) By June 25 of each year, based on the estimate~~
31 ~~provided pursuant to subdivision (a) of Section 16332, the~~
32 ~~Legislature shall estimate the amount of nonrecurring revenue~~
33 ~~received for the current fiscal year. Except as provided in~~
34 ~~subdivision (b), nonrecurring revenue shall be used for one-time~~
35 ~~expenditures only and shall be appropriated in the Budget Bill for~~
36 ~~the ensuing fiscal year.~~

37 ~~(b) If the amount appropriated pursuant to subdivision (a) in a~~
38 ~~prior fiscal year exceeded the amount of nonrecurring revenue~~
39 ~~received during that fiscal year, the excess amount may be deducted~~

1 ~~from the amount of nonrecurring revenue available for~~
2 ~~appropriation in ensuing fiscal years pursuant to subdivision (a).~~
3 ~~SEC. 7. This act shall become operative only if SCA _____ is~~
4 ~~approved by the voters, and it shall become operative upon the~~
5 ~~operative date of that measure.~~

O